

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ENRICO PAVAO,

Plaintiff,

v.

UNKNOWN,

Defendant.

No. 2:21-cv-2082 TLN AC P

ORDER

Plaintiff, a pretrial detainee, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 2, 2022, plaintiff filed a motion to “toll” this case. ECF No. 18. As the motion seeks to indefinitely suspend the deadline for filing an amended complaint, the court construes it as a motion to stay the case. For the reasons stated below, plaintiff’s motion will be denied.

On January 13, 2022, the court screened plaintiff’s complaint and determined that it failed to state a claim. ECF No. 9. Plaintiff was given thirty days to file an amended complaint. *Id.* at 10. Since then, plaintiff has requested and has been granted three thirty-day extensions of time. ECF Nos. 12-17. The most recent extension of time was granted on May 2, 2022. ECF No. 17. In that order, the court cautioned plaintiff that absent extraordinary circumstances, no further extensions of time would be granted. *Id.*

1        In support of his request for a stay, plaintiff states that he is currently receiving mental  
2 health care as an outpatient and does not have the mental capacity to make legal decisions. ECF  
3 No. 18. He further asserts that staying this matter would not prejudice the defendants. Id.<sup>1</sup>

4        Since the filing of this case, plaintiff has demonstrated a satisfactory understanding of the  
5 purpose of this action as well as of the general rules of court. He understands that he is to file an  
6 amended complaint, as evidenced by his three requests for an extension of time to do so, and his  
7 filing of the instant motion requesting that this matter be stayed. See ECF Nos. 12, 14, 16, 18.  
8 On screening, the court identified the complaint's deficiencies in detail and provided guidance  
9 regarding the law that governs plaintiff's claims and the requirements for pleading. See ECF No.  
10 9 at 3-10. For all these reasons, it does not appear that plaintiff is incapable of meeting Rule 8's  
11 requirement of providing a short and plain statement of his claims. See Fed. R. Civ. Proc., Rule  
12 8(a)(2). Accordingly, plaintiff's outpatient mental health treatment does not support an indefinite  
13 stay of the proceedings. The court will provide a small amount of additional time for the filing of  
14 the first amended complaint.

15        For the reasons explained above, IT IS HEREBY ORDERED that:

16            1. Plaintiff's motion to "toll" or stay these proceedings (ECF No. 18) is DENIED, and  
17            2. The first amended complaint shall be filed within thirty days of the service of this  
order.

19        Plaintiff is warned that his failure to file an amended complaint within the time provided  
20 will likely result in a recommendation that this action be dismissed without prejudice.

21 DATED: May 10, 2022

22              
ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE

27            <sup>1</sup> Plaintiff has not yet identified any defendants or stated any cognizable claims. It is impossible  
28 to evaluate prejudice to unknown defendants in relation to unknown claims.